



Department of Corrections  
**ADMINISTRATIVE BULLETIN**

**Subject:** INMATES INELIGIBLE TO  
EARN CREDIT PURSUANT TO  
PENAL CODE SECTION 2933.5

**Number:**

**93/38**

**Date Issued:**

**September 20, 1993**

**Cancelled Effective:**

This Administrative Bulletin announces implementation of Penal Code (PC) Section 2933.5. This law which specifies persons ineligible to earn credit on terms of imprisonment became effective January 1, 1991.

PC Section 2933.5 provides that every person convicted of any felony offense listed below, who has been previously convicted two or more times, on charges separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in PC Section 667.5(g) for any of the offenses listed below shall be ineligible to earn credit on their terms of imprisonment.

Offenses include any of the following:

- Murder, PC Sections 187 and 189.
- Voluntary manslaughter, PC Section 192(a).
- Mayhem, PC Section 203.
- Aggravated mayhem, PC Section 205.
- Kidnapping for the purpose of committing child molestation, PC Section 207(b) in which great bodily injury was personally inflicted as provided in PC Section 12022.7.
- Assault with vitriol, corrosive acid, or caustic chemical of any nature, PC Section 244.
- Rape, PC Section 261(2).
- Sodomy by means of force, violence, duress, menace or, fear of immediate and unlawful bodily injury on the victim or another person, PC Section 286(c).
- Sodomy while voluntarily acting in concert, PC Section 286(d).
- Lewd or lascivious acts on a child under 14, PC Section 288(b).
- Oral copulation by force, violence, duress, or fear of immediate and unlawful bodily injury on the victim or another person, PC Section 288a(c).



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- Continuous sexual abuse of a child, PC Section 288.5.
- Penetration by foreign object, PC Section 289(a).
- Exploding a destructive device or explosive with intent to injure, PC Section 12303.3; with intent to murder, PC Section 12308; or resulting in great bodily injury or mayhem, PC Section 12309.
- Any felony in which the defendant personally inflicted great bodily injury, PC Section 12022.7.

PC Section 2933.5 applies whenever the present felony is committed on or after January 1, 1991, **regardless** of the date of the commission of the prior offenses.

If a prior conviction of an offense in another jurisdiction includes the elements of a felony listed above, that prior conviction shall fall under the provisions of PC 2933.5.

The prior prison terms must be separate prison terms and **do not have to be pled and proved** in the instant proceedings.

This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement or habitual offender provision authorized under any other section.

If the provisions of PC Section 2933.5 apply to persons sentenced to 15-to-Life or 25-to-Life terms or sentenced as habitual offenders pursuant to PC Section 667.7, the provisions of PC Section 2933.5 take precedence over any other credit statute.

If the provisions of PC Section 2933.5 apply to an offender, conduct credit for the period between sentencing and delivery to prison shall not apply.

It has been determined that **the court is not required to invoke the provisions of PC Section 2933.5**. The Department of Corrections (CDC) shall administratively apply the provisions of this law.

All inmates, regardless of whether or not they fall under the provisions of PC Section 2933.5, will continue to be assigned to work/privilege groups U, A2, B, A1, C, D1, and D2. Therefore, classification committees shall provide work group information and case records staff shall



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record work group information in the Offender Based Information System (OBIS) as they have in the past.

**Procedures for identifying and processing affected cases:**

- All legal documents, rap sheets/California Law Enforcement Telecommunications System criminal history printouts, Probation Officer's Reports, etc., for each inmate received at a reception center, will be reviewed by staff at the level of Case Records Specialist or above.
- If it is determined that an inmate **falls under** the provisions of PC Section 2933.5, a CDC Form 112, Chronological Inmate History, will be posted as follows: "PC Section 2933.5 Review. Found ineligible to earn worktime credits on Case Number \_\_\_\_\_."

**Procedures for PC Section 1170 offenders subject to PC Section 2933.5:**

- At the time the commitment data is entered in the OBIS commitment program, type the transaction code "DSL" and enter **PC Section 2933.5** in the "Other Orders" field. It is **imperative** that this information is entered exactly as instructed in order to identify affected offenders. Any variation, i.e., PC 2933.5 Eligible, etc., will prevent the Department from extracting an accurate list of affected inmates.
- On the second day discard the Legal Status Summary (LSS) and manually vest zero credits. A LSS will be printed on the third day reflecting the inmate's release date. The adjusted maximum will be the inmate's Earliest Possible Release Date (EPRD).
- Post the adjusted maximum/EPRD on the CDC Form 112 and forward a copy of the LSS to the inmate accompanied by the CDC Form 1810 (8/93), Notification of Credit Earning Ineligibility - Penal Code Section 2933.5 (Attachment). A copy of the CDC Form 1810 shall be filed beneath the LSS in the inmate's central file.



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- On the fourth day enter the computer command "DSL" again and change the inmate's "Calc Type" to "X". This will prevent the generation of future LSSs, and the entry of credit losses, restorations, and work credit gains. Timecards for these inmates shall continue to be scanned.

NOTE: Effective immediately, timecards shall not be purged from the central file of any inmate affected by PC Section 2933.5.

- Staff shall call Case Records Administration for assistance when processing those cases containing both offenses subject to PC Section 2933.5 and offenses which are not subject to this statute.

**Procedures for PC Section 1168 offenders subject to PC Section 2933.5:**

- 15-to-Life, 25-to-Life, and all other cases requiring a manual LSS which are subject to PC Section 2933.5 shall be entered into OBIS in compliance with established procedures. Additionally, the phrase **PC Section 2933.5** shall be entered in the "Other Orders" field when the provisions of PC Section 2933.5 apply.
- If the provisions of PC Section 2933.5 apply to a case referred to the Legal Processing Unit (LPU) for a manual LSS; the CDC Form 1130, LPU Documents Transmittal, shall include the determination that PC Section 2933.5 applies.

Please inform all persons concerned of the contents of this bulletin which shall remain in effect until incorporated into the appropriate section(s) of the Department Operations Manual.

Inquiries concerning this AB should be directed to any one of the following Case Records Administrators: Judith DeBelle, (916) 324-2265 or CALNET 454-2265; Marilyn Ouye, (916) 445-3716 or CALNET 485-3716; or Nancy Williams (916) 323-7401 or CALNET 473-7401.

R. H. DENNINGER  
Chief Deputy Director



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